

Dale F. Gardiner, #1147  
Mark C. Quinn, #6782  
O'RORKE & GARDINER, LLC  
6965 Union Park Center, Suite 450  
Midvale, Utah 84047-6045

Telephone: (801) 569-3131  
Facsimile: (801) 569-3434

DATE 6-23-98 TIME 1435  
B/R 1594 W. North Temple  
UPON P. O. Son  
SINDT CONSTABLE | S.L. COUNTY, UTAH  
D.R. L.H. DEPUTY

Attorneys for Plaintiff

**IN THE THIRD JUDICIAL DISTRICT COURT  
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH**

HI-COUNTRY ESTATES HOMEOWNERS  
ASSOCIATION, a Utah corporation,

Plaintiff,

v.

BAGLEY & COMPANY, et al.,

Defendants.

FOOTHILLS WATER COMPANY, a Utah  
corporation,

Counterclaimant,

v.

HI-COUNTRY ESTATES HOMEOWNERS  
ASSOCIATION, a Utah corporation, et al.,

Counterclaim Defendants.

**TRIAL  
SUBPOENA**

Civil No. C85-1464  
Judge Pat B. Brian

TO: JERRY OLDS, STATE ENGINEER'S OFFICE  
DIVISION OF WATER RIGHTS  
1594 WEST NORTH TEMPLE  
SALT LAKE CITY, UT 84114

YOU ARE HEREBY COMMANDED to appear and give testimony at the trial in the above-referenced matter at the Courtroom of Judge Pat B. Brian, Scott M. Matheson Courthouse, 450 South State Street, Room #S42, Salt Lake City, Utah. The four-day trial is scheduled to begin on July 13, 1998 at 9:00 a.m. You will be contacted to inform you of the time at which you will be called to testify.

DATED this 19<sup>th</sup> day of June, 1998.

O'RORKE & GARDINER, LLC



Dale F. Gardiner

Mark C. Quinn

Attorneys for Plaintiff

## NOTICE TO PERSONS SERVED WITH A SUBPOENA

1. If this subpoena commands you to appear to give testimony at trial or at hearing, you must appear in person at the place designated in the subpoena.
2. If this subpoena commands you to appear to give testimony at a deposition, you must appear in person at the place designated in the subpoena. If you are a resident of Utah, the subpoena may command you to appear only in the county where you reside, or where you are employed, or where you transact business in person, or where the court orders you to appear. If you are not a resident of Utah, the subpoena may command you to appear only in the county where you are served with the subpoena, or where the court orders.
3. If this subpoena commands you to appear to give testimony at trial, at hearing, or at deposition, but does not command to produce or to permit inspection and copying of documents or tangible things, or inspection of premises, you have the right to object if the subpoena:
  - (i) imposes an undue burden or expense upon you;
  - (ii) does not allow you a reasonable time to comply, which may be less than 14 days, depending on the circumstances; or
  - (iii) commands you to appear at deposition at a place in violation of paragraph 2, above.
4. To object to complying with the subpoena, you must file with the court issuing you the subpoena a motion to quash or to modify the subpoena. You must comply with the subpoena unless you have obtained a court order granting you relief from the subpoena.
5. If this subpoena commands you to produce or to permit inspection and copying of documents or tangible things, or to permit inspection of premises, but does not command you to appear to give testimony at trial, at hearing or at deposition:
  - (i) you need not appear in person at the place of production or inspection;
  - (ii) you shall produce documents as you keep them in the ordinary course of business or organize and label them to correspond with the categories demanded in the subpoena; and
  - (iii) you need not make any copies or advance any costs for production, inspection or copying. If you agree to make copies, the party who has served the subpoena upon you must pay the reasonable costs of production and copying.
6. You have the right to object if the subpoena:
  - (i) imposes an undue burden or expense upon you;
  - (ii) does not allow you at least 14 days to comply, unless the party serving the subpoena has obtained a court order requiring an earlier response;
  - (iii) requires you to disclose a trade secret or other confidential research, development or commercial information;
  - (iv) requires you to disclose privileged communication with your attorney or privileged trial preparation materials; or
  - (v) requires you to disclose an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from expert's study made not at the request of any party.
7. To object to a subpoena for one of the reasons stated in paragraph 6, you must provide notice in writing of your objection to the party or attorney serving the subpoena before the date specified in the subpoena for you to respond. If your objection is based on either paragraph 6(iii), or 6(v), your written objection must describe the nature of the documents, communications or things that you object to producing with sufficient specificity to enable the party or attorney serving the subpoena to contest your objection. You must also comply with the subpoena to the extent that it commands production or inspection of materials to which you do not object.
8. After you make timely written objection, the party who has served the subpoena upon you must obtain a court order to compel you to comply with the subpoena. The party must give you a copy of its motion for a court order and notice of any hearing before the Court. You have the right to file a response to the motion with the Court and to attend any hearing. After you make a timely written objection, you have no obligation to comply with the subpoena until the party serving the subpoena has served you with a court order that compels you to comply.
9. If this subpoena commands you to produce or to permit inspection and copying of documents or tangible things, or to permit inspection of premises, and to appear to give testimony at trial, at hearing or at deposition, you may object to the production or inspection of documents or tangible things, or inspection of premises, by following the procedure identified in paragraph 7. Even though you object to production or inspection of documents or tangible things, or inspection of premises, you must appear in person at trial, at hearing or at deposition unless you obtain an order of the court by following the procedures identified in paragraph 4.

## CERTIFICATE OF MAILING

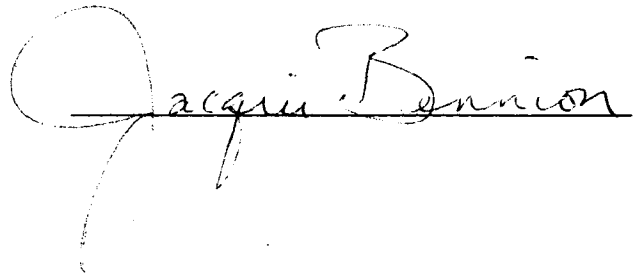
I HEREBY CERTIFY that a true and correct copy of the foregoing **TRIAL SUBPOENA** was mailed by First Class mail, postage prepaid on the 22<sup>nd</sup> day of June, 1998, to the following:

Val R. Antczak  
R. David Grant  
PARSONS, BEHLE & LATIMER  
201 South Main, Suite 1800  
P. O. Box 45898  
Salt Lake City, UT 84145

Michael M. Later  
KIMBALL, PARR, WADDOUPS, BROWN & GEE  
185 South State Street, Suite 1300  
P. O. Box 11019  
Salt Lake City, UT 84147

Ralph J. Marsh  
BACKMAN, CLARK & MARSH  
68 South Main, Suite 800  
Salt Lake City, UT 84101

Larry R. Keller  
KELLER & LUNDGREN, L.C.  
257 East 200 South, Suite 340, Mailbox 10  
Salt Lake City, Utah 84111

A handwritten signature in cursive script, reading "Jacquie Bonnier", written over a horizontal line.

LAW OFFICES  
O'RORKE & GARDINER, LLC

SUITE 450  
6965 UNION PARK CENTER  
SALT LAKE CITY, UTAH 84047

TELEPHONE (801) 569-3131  
TELECOPIER (801) 569-3434  
E-MAIL: d.gardiner@ororkegardiner.com

DALE F. GARDINER

June 19, 1998

Via Hand Delivered

Jerry Olds  
State Engineer's Office  
Division of Water Rights  
1594 West North Temple  
Salt Lake City, UT 84114

Dear Jerry:

The trial on the well lease encumbrance is scheduled to begin on July 13, 1998 and end on July 16, 1998. Attached is a Subpoena. Please call and ask for me or Mark Quinn to let us know the date and time that it would be convenient for you to review your testimony. Thank you for your help.

Very truly yours,



Dale F. Gardiner

DFG/bh

Attachment